WP(C) 5164/2007
BEFORE
HON'BLE MR. JUSTICE RANJAN GOGOI

As agreed to by the learned counsel for the parties, final orders in the writ petition are being passed at the motion stage itself.

The petitioner who is a driver in the Health Department was transferred from Tamulpur PHC to Kamarkuchi PHC, Nalbari by order dated 8.5.2007 passed by the Joint Director of Health Services, Nalbari. The said order of transfer has been cancelled on 17.9.2007 giving rise to the present writ petition.

On instructions received, Ms A Verma, learned Standing Counsel, Health Department has stated that the transfer of the petitioner to Kamarkuchi PHC by the order dated 8.5.2007 is on the face of it illegal as Tamulpur PHC is in the BTC area and, therefore, the Joint Director of Health Services, Nalbari will not be authorised to issue the transfer order dated 8.5.2007. Accordingly, the said Officer has been asked to explain his conduct. In the meantime, as the illegal order dated 8.5.2007 was not known, against the post in Kamarkuchi PHC another incumbent had been transferred from Guwahati. As the said incumbent could not join in the post as the petitioner was holding the same by virtue of the transfer order dated 8.5.2007, the said order was cancelled on 17.9.2007 and presently the concerned incumbent is working at Kamarkuchi PHC. In such circumstances, the learned Standing Counsel, Health has submitted that the Department is ready to post the petitioner in any other suitable location including Guwahati.

The petitioner is due to retire on 31.10.2007. That apart, he is suffering from cancer and needs constant medical treatment in B. Barooah Cancer Institute at Guwahati. The petitioner has less than four weeks of service left. Kamarkuchi PHC happens to be near his hometown. If in the aforesaid circumstances the equity jurisdiction of this Court is exercised to direct the respondents to allow the petitioner to work in Kamarkuchi PHC until his retirement on 31.10.2007, such a direction will not be mis-placed.

Accordingly, the writ petition is closed with the above direction with the further direction that for the services rendered upto 31.10.2007, the petitioner may be paid salary against one of the vacant posts in Guwahati.

This disposes of the writ petition.